

Appl. No. : 10/791,164  
Filed : March 2, 2004

#### REMARKS

Claims 1-6, 8-10, 12-39 remain pending in the present Application, Claims 1-5 having been amended and new Claim 39 having been added. The claims set forth above include marking to show the changes made by way of the present amendment, deletions being in ~~strikeout~~ or [[double brackets]] and additions being underlined.

In response to the Office Action mailed March 1, 2007, Applicants respectfully request the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments.

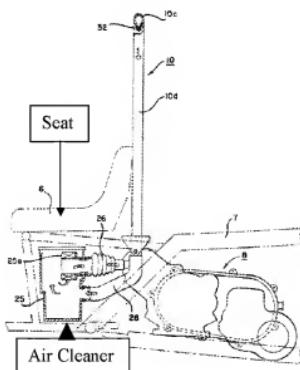
#### New Claim 39 Is In Condition For Examination On Its Merits

By way of the present Amendment, Applicants have added new Claim 39 which is fully supported by the Specification as originally filed. Thus, no new matter has been entered. Additionally, Applicants submit that new Claim 39 clearly and non-obviously defines over the cited references, not only because it depends from Claim 31 (discussed below), but also on its own merit.

#### Mizuta et al. Does Not Anticipate Claims 31-32 or 37

Claims 31-32 and 37 stand rejected as anticipated by United States Patent No. 5,068,858 to Mizuta et al. Applicants respectfully disagree. However, in order to expedite prosecution of the present Application, Applicants have amended Claim 1. Applicants expressly reserve the right to further prosecute the original version of Claims 2-4 and 34 through continuation practice.

The Mizuta et al. reference teaches a small four-wheeled vehicle with the air cleaner disposed **directly beneath** the seat. **No portion**, not even a sliver, of the air cleaner is disposed forward of the seat. Rather, as is clear from Figure 3 of Mizuta et al. (below), the entire air cleaner 25 is disposed rearward from the forward edge of the seat. This is clearly apparent in Figure 1, reproduced and annotated below.



In contrast, Claim 31 recites, among other recitations, “at least one seat supported by the frame, an internal combustion engine powering at least one of the wheels, and an air intake system arranged to supply air to the engine for combustion, the air intake system comprising an air cleaner configured to filter the air, the seat being disposed in a fore to aft direction on the vehicle such that the air cleaner lies forward of the seat and at least a portion of the engine lies behind the seat.”

As shown above, no portion of the air cleaner Mizuta et al. is positioned forward from the seat. Rather, it is directly beneath the seat. Thus, Claim 31 is not anticipated by Mizuta et al. Claims 32 and 37 also define over the Mizuta et al. reference, not only because they depend from Claim 31, but also on their own merit. Reconsideration and allowance of Claims 31, 32 and 37 are respectfully requested.

**The Proposed Combination of Mizuta et al./Wagner et al. Does Not Make Obvious Claims 1, 3, 5, 34, and 38**

Claims 1, 3, 5, 34, and 38 stands rejected under 35 U.S.C. § 103(a) as being obvious over Mizuta et al in view of United States Patent No. 6,729,830 issued to Wagner et al. Applicants respectfully disagree. However, in order to expedite prosecution of the present Application, Applicants have amended Claims 1 and 5. Applicants expressly reserve the right to further prosecute the original version of Claims 1-21.

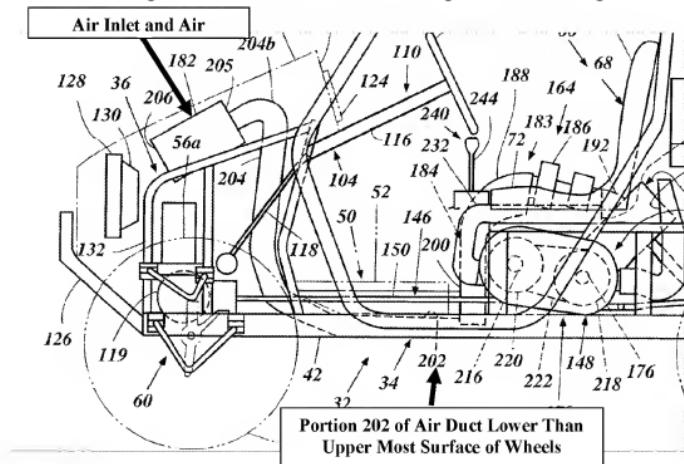
Appl. No. : 10/791,164  
Filed : March 2, 2004

Mizuta et al., described above, teaches a small four-wheeled vehicle with the air cleaner disposed directly beneath the seat. As shown in Figure 3 above, the air duct 26 extends horizontally from the air filter to the engine. As such, Mizuta et al. fails to teach a vehicle having both an air inlet and an air cleaner disposed above the upper most surface of the wheels, and an air intake duct extending from the air inlet and the air cleaner, then to a portion below the uppermost surface of the wheels, then the engine.

In contrast, Claim 1 now recites, “the air intake system having an air inlet and an air cleaner through which ambient air enters the intake system, the air inlet and the air cleaner positioned higher than the uppermost surface of the wheels, and an air intake duct extending rearwardly to the engine, the air intake duct extending from the air cleaner, then to at least a first portion of the air intake duct positioned lower than the uppermost surface of the wheels, and at least a second portion of the air intake duct being disposed between the first and second seating areas.”

Similarly, Claim 5 now recites, among other recitations, “the air intake system having an air inlet and an air cleaner through which ambient air enters the intake system, the air inlet and the air cleaner positioned higher than the uppermost surface of the wheels, and an air intake duct extending from the air cleaner, then to at least a portion of the air intake duct positioned lower than the uppermost surface of the wheels, then to the engine, and at least two seat assemblies disposed side by side on the frame, the air inlet positioned between the seat assemblies in a top plan view of the vehicle.”

These arrangements are illustrated in the non-limiting embodiments of Figures



Neither Mizuta et al. nor Wagner et al. teach or suggest a vehicle having an air inlet and air cleaner disposed above an uppermost surface of the wheel and an air intake duct extending from the air cleaner, then to a position below the uppermost surface of the wheels, then to the engine.

Applicants submit that Claims 1 and 5 clearly and non-obviously define over the cited references. Additionally, Applicants submit that Claims 3, 34, and 38 also define over the cited references, not only because they depend from Claim 1, but also on their own merit.

#### Allowable Subject Matter

Applicants appreciate the indication that Claims 6, 8-10, and 12-21 are allowed. Additionally, gratefully acknowledge the indication that Claims 2 and 4 would be allowed if amended into independent form. While Applicants disagree with the outstanding rejections, as specifically noted above, Applicants amended Claims 2 and 4 into independent form. Thus, Claims 2, 4, 6, 8-10, and 12-21 are in condition of allowance.

Appl. No. : 10/791,164  
Filed : March 2, 2004

Applicants also wish to note that the recitations of Claim 1 have been incorporated into Claim 2 and the recitations of Claims 1 and 3 have been incorporated into Claim 4 without any substantive change. As such, the present respective scopes of Claims 2 and 4 are identical to the previous scopes of Claims 2 and 4. Thus, Applicants submit that these amendments do not represent an abandonment of any range of equivalents of the previous recitations of Claims 2 and 4. Rather, all of the equivalents of the previous recitations of Claims 2 and 4 are also equivalents of the present recitations of Claims 2 and 4, respectively.

#### CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: March 10, 2008

By: /Michael Giuliana/  
Michael A. Giuliana  
Registration No. 42,611  
Attorney of Record  
Customer No. 20,995  
(949) 760-0404

4979985\_1  
030708